

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

DOMINIQUE T. EDWARDS #972689

Plaintiff

vs

CIVIL COMPLAINT

Capt. McIntyre
C/O Kenyon
C/O Burke and
Reviewing Sergeant Doe
Sgt. Robinson
Hearings Investigator Marshall
Respondent(s).

FILED - GR
April 24, 2023 1:15 PM
CLERK OF COURT
U.S. DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
BY:JMW SCANNED BY: KB/4/25

Civil No.

Mag. Judge:

Dist. Ct. Judge

2:23-cv-79
Maarten Vermaat
U.S. Magistrate Judge

1. JURISDICTION & VENUE:

1. This is a Civil Action Law-Suit authorized by U.S.C. §1983 to address the deprivations under Color of State Law of rights secured by the Constitution of the United States.

This Court has jurisdiction under 28 U.S.C. §§1331 and 1333 (a)(3). Plaintiff seeks declaratory relief pursuant to 28 U.S.C. §§2201 and 2202. Plaintiff claims Injunctive relief are authorized by 28 U.S.C. §§2283 and 2284 and Rule 65 of the Fed R.of Civ-Proc.

2) The Western District Court is the appropriate Venue under 28 U.S.C. §1331 (b)(2) because it is where the events giving rise to this overall claim occurred.

PLAINTIFF

3) Dominique T. Edwards is and was and at all times mentioned herein a prisoner of the State of Michigan within the Custody of the Michigan Dept. of Corrections. Plaintiff is currently confined at the Cooper Street Correctional Facility, 3100 Cooper St. Jackson, MI 49201.

1st DEFENDANT

4) Defendant Capt. McIntyre is assigned as a Captain whose duties are known as Shift Commander who work at (NCF) Full address will be supplied elsewhere within this complaint.

2nd DEFENDANT

5) C/O Kenyon works at the Newberry Correctional Facility(NCF) assigned therein as a Correctional Facility better known as a Unit Officer.

3rd DEFENDANT

6) C/O Burke works for the Department of Corrections. Has assigned to work as a Unit Correctional Officer at (NCF).

4th Defendant:

7) Sgt. John Doe is assigned at Newberry Correctional as a Staff Sergeant.

5th Sgt. Robinson:

8) Is also a Staff Sergeant so assigned to work at the Newberry Correctional Facility.

6th DEFENDANT

Investigator

9) Hearings ~~Officer~~ is so assigned at Newberry Correctional Facility(NCF) to directly assist an assigned ALJ.

10) Each named Defendant is being sued in they're individual and official Capacity's. At all times mentioned herein and each Defendant acted under Color of State law."

FACTS

11) On March 5, 2022 between 1:08 1:10 while at Newberry Correctional Facility Plaintiff, while lying upon his bunk, an altercation transpired between two individuals who locks in said cube in question. Then at approx. 5:15 minutes later, Defendant Kenyon enters into our cube(sleeping quarters) carrying a trash bag, looks in Plaintiff's direction and asked; "Where do you lock?" Yet he clearly

seen where as Plaintiff was lying upon his own bunk bed."OF a sudden this officer asked Plaintiff to step out of the cube.

Again on same day, being 3-5-2022 at approx. 1:30 2:30 pm, Plaintiff entered into the Officers station and being escorted by C/O's Kenyon and Burke, via-I-Cube at which time C/O Burke stated: Now you know your not suppose to have that in your Property. Plaintiff then ask what are you talking about?" Officer Burke then said Knives; you know shanks."I then asked him: Could you not play with me like that? I have no shanks or knives in my property.

During this same hour, having been escorted by Both Kenyon and Burke was assured into Sgt. John Does office.I then addressed him and was asked by him to be allowed to see my hands.I complied,he then asked to see my body so I removed my shirt so that he could examine me;no one stated a reason for this particular intrusion."

A second Sgt. had me called back into Officers station and told me to give him my Id. Card and that I would be receiving some misconducts; Absent being told what I had done.

I was allowed to return to my cube and requested to visit the Jpay room same was granted, only to be ordered out of the Jpay room so I could be placed into hand cuffs then was escorted to the control center; placed in a Segregated shower and told to strip; only to be searched and examined once again only this time I was stripped naked; was then escorted by a C/O & Sgt. to a bathroom to be drug tested absent any reason or probable cause.

On 3-7-2022 at approx. 2:55 Plaintiff received a Class I-major misconduct for that of assault resulting in serious physical injury and was placed on nonbond status Restitution requested/see confidential statement (Exactly how first ticket reads. Note :nothing ties this Plaintiff to any assault upon the alleged victim Which is precisely why the ticket warranted dismissal. Rather Defendant Captain

pulled the ticket in violations of governing policy which states: Once a misconduct is written and reviewed it cannot be re-written, nor can it be pulled except by a Warden no one else.

Or alternatively must be added on the original, but a re-write is prohibited via policy directive. Even doubly so, the ALJ(ADMINISTRATIVE LAW JUDGE) sent the misconduct back for a re-write after said hearing commenced; realizing ticket mandated dismissal. See PD. 03.03.105 at Pgs. 3 of 13 under class one misconduct review section paragraph P. Also, same policy states: A misconduct shall not be pulled after it has been heard by a LARA hearings officer. Seeing that same violate Due Process pursuant to the fourteenth Amendment.

Needless to say, but C/O Burke made the racist comment leave the darkie alone Kenyon stated that will teach him about saying but-for certain racist inmates we have a perfect cube. "which is deemed as protected speech via the 1st amendment. only for same to be violated via retaliation.

There after, following the pulling and re-writing of the misconduct, the second sgt. reviewed and served second re-written misconduct upon Plaintiff and flat out ignored Plaintiff pleas to void this unconstitutional second misconduct.

Plaintiff, ask for certain witnesses for his defense. Hearings ~~Officer~~ never turned over any statement from witness to the Hearing's officer which accounts for Hearings officer making no mentioning of said defense witnesses whether credible or their not. Again, a clear violation under Wolff v McDonald so written under the fourteenth amendment as to Due Process.

Finally, Plaintiff sought to appeal said rulings" all to no avail. He then filed Steps 1- II-and III by way of fully exhausting his administrative remedies which he has fully done.

Plaintiff was so emotional drain until he had to see a Psychiatrist. Experienced Anxiety, PTSD etc.

LEGAL CLAIMS

12) Plaintiff realleges and incorporates by reference paragraphs(1-11) stating that all named Defendants allegedly violated Plaintiff's Constitutional rights to his first amendment having been penalized for exercising his right to free speech."

13) Plaintiff also alleges that as a result of him having been confined to segregation served, small portions of food via a segregated food tray, he lost around 15-pounds. Which ~~Constitute~~ Cruel and Unusual Punishment contrary / the eighth amendment.

14) Plaintiff further alleges that he was denied Due Process both by Defendant Captain, both Sergeants, Racial actions by initial Officers Defendants.

15) Defendant DEMAND TRIAL BY JURY ALL ISSUES SO TRIABLE BY A JURY.

FURTHER RELIEF

16) That this court find that each named Defendant violated Plaintiff's Constitutional rights:

A) Award to Plaintiff Compensatory damages from each defendant in the amount of \$150,000

B) Award from each Defendant Punitive Damages from each named Defendant the amount of \$175,0000 severally.

And grant any further relief as this court deems just and equitable.

Dated April 18, 2023

1st Domingue Edwards

UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF MICHIGAN

NORTHERN DIVISION

STATE OF MICHIGAN)

)ss:

COUNTY OF JACKSON)

Mr. Dominique T. Edwards #972689 (Affiant/Plaintiff) having on this 18 day of April 2023, appeared before me a NOTARY and after being duly deposed avers that:

- 1) He is the Plaintiff within the above cause.
- 2) That on March 5, 2022 while residing at Newberry Correctional Facility (NCF) resided in Level I, Unit #11) an altercation broke out between and his bunky with in the aforesaid cube. at the conclusion of said physical altercation, a Captain McIntyre claimed that via a Confidential Kite it is now believed that Affiant had participated within said Altercation— to wit: Allegedly twisted the victim's(Sullivan's) leg, while the aggressor inmate stood behind said victim hitting victim from behind, which simply does not add up. Namely, it is never disputed that the victim (being white) got into said altercation with his bunky a(black inmate) What truly prompted staff to equate Plaintiff is that prior to this altercation plaintiff simply said this would be a better cube but-for racist inmates. As a factual matter, this is belied by" in the initial written misconduct it does not even mention Plaintiff as having twisted this victim's leg or anything else to give rise for having charged Affiant. Racism runs rampant at (NCF), so based on the meader comment:would be a better cube but-for racist inmates, staff penalizes Affiant.
- 3) Note : this incident supposedly transpired on 3/5/22, but said misconduct was not written until two days later being 3/7/2022. Violative of PD.03.03.105, shall be written immediately after observing said altercation).

(i)

4) An initial hearing was held before the ALJ(Administrative Law Judge) only for original misconduct to be pulled and sent back to the writer(Captain) for a Re-write which again violate policy; thus once a misconduct is written it can only be pulled by the Reviewing officer(Sgt); or sent back for re-write by reviewing officer by adding to original misconduct on same ticket, not a new one), as in this case. In this case of a blatant violation of Due Process, the misconduct was reviewed, served, then actually heard by the ALJ, pulled and sent back to the Captain that wrote the initial misconduct contrary to PD. 03.03.105. pg.3 of 13 depicting the proper procedure for Class-I under review section paragraph (P) A misconduct SHALL not be pulled after it has been reviewed and heard by a LARA hearings officer. See:Attached pertinent Exhibits(a-c).

5) Plaintiff was clearly singled out for exercising Free speech contrary to U.S.

Const. Amend.1st.

6) Initially, Plaintiff was called out by C/O subsequent to having entered(that is officer) having entered plaintiff cube with plastic bags, and while plaintiff was lying upon his own bunk, officer asked a dumb question: Where do you lock- only to then tell plaintiff to step out of the cube to be escorted out of the day room by Officer Kenyon and Burke. In route C/O Burke (saying darkie) along with C/O Kenyon, racist along with: Now you know your not suppose to have that in your property; affiant inquired as to what was said officer speaking of? C/O Burke replied Knives, shanks-I then asked this officer not to play with me like that. Again ~C/O Kenyon piped up;Leave the darkie alone. We must do this one by the book; then laughed!upon entering the office we were met by a Sergeant (name unknown) who ask Plaintiff to state his name and asked to see/ hands, and instructed me to remove my shirt. There after, I was allowed to remain in my cube

7) Affiant was again called to the office of Sgt. who asked for my Id. card, and stated you big black guys pride yourselves on abusing white inmates-your

definitely getting tickets! So being allowed to go back to my cube, I then obtained permission to attend the Jpay room shortly there after, was again called out and placed in handcuffs and escorted to segregated shower to be stripped searched as I was totally nude; then administered a drug test.

8) On 3/7/2022 affiant was issued a class-I(not for any drugs) but that of assault and placed on nonbondable status. Where one is confined to a cell and receive segregated food trays which is far less than population;whereas affiant did indeed loss weight 15-pounds to be exact.

9) The racial slurs and ongoing harassment got so bad, until affiant had to see a psych and alerted the facility inspector to no avail.

10) At no time did affiant ever assault this prisoner. In fact, I vaguely knew him; thereby having no reason to assault him at all. (NCF) is well known for setting blacks up based on racism. Come to think of it, this is why this particular inmates never implicated Affiant.

TO ALL OF THE ABOVE, Plaintiff swears under penalty of perjury that all of same is true and can attest to under oath in a court of law.

/s/ Mary Lou Kalat
4/18/2023

NOTARY PUBLIC

My Commission Expires on:---

Subscribed and sworn to be fore me this day of April 2023.

MARY LOU KALAT
NOTARY PUBLIC, STATE OF MI
COUNTY OF SHIAWASSEE
MY COMMISSION EXPIRES Sep 18, 2025
ACTING IN COUNTY OF

Jackson

Dominique Edwards #972697

3100 Cooper ST

Jackson, MI, 49201

Jackson Cooper ST. correctional facility

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Unit
For T

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US POSTAGETM PITNEY BOWES



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